

Title 31 MARYLAND INSURANCE ADMINISTRATION

Subtitle 02 POWERS AND DUTIES — HEARINGS

Chapter 05 Public Information Act Requests

Authority: Insurance Article, §§2-109 and 2-112; [State Government Article, §§10-611—10-623]*General Provisions Article, Title 4*, Annotated Code of Maryland

.01 General.

These regulations set out procedures for filing requests with the Maryland Insurance Administration for the inspection and copying of records under [State Government Article, 10-611-10-628]*General Provisions Article, Title 4*, Annotated Code of Maryland.

.02 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Act" means the Public Information Act, [State Government Article, 10-611-10-628]*General Provisions Article, Title 4*, Annotated Code of Maryland.

(2)-(5) (text unchanged)

(6) "Public record" means:

(a) *The original or any copy of* [A]any documentary material that is made or received by State government in connection with the transaction of public business and is in any form, including a:

(i) Card[.];

(ii) [Correspondence,]*Computerized record*;

(iii) [computerized record,] *Correspondence*;

(iv) Drawing[.];

(v) [Form,]*Film or microfilm*;

(vi) [Book,]*Form*;

(vii) [Photograph or photostat,]*Map*;

(viii) [Film or microfilm, or] *Photograph or photostat*;

(ix) Recording[, tape, or map]; or

(x) *Tape*.

(b) (text unchanged)

(7) (text unchanged)

.03 Applications.

A. (text unchanged)

B. A written request shall contain:

(1) The applicant's name [and address];

(2) The applicant's [signature] *mailing address or electronic mail address*; and

(3) A brief description of the record sought.

.04 Response to Written Request.

A. If the custodian grants a written request, the custodian shall produce the record for inspection *immediately*, or within a reasonable period needed to retrieve the public record, not to exceed 30 days after receipt of the written request.

B. If the custodian denies the written request, the custodian shall do so [immediately]*promptly*, but not later than 30 days after receipt of the written request. Within 10 working days [after mailing the notification of the denial], the custodian shall provide to the applicant a written statement that gives:

(1) The reason for the denial[.], *and if the denial is based on §4-343 of the Act, a brief explanation of why the denial is necessary*;

(2) The legal authority for the denial; [and]

(3) *Without disclosing the protected information, a brief description of the denied public record that will enable the applicant to assess the applicability of the legal authority for the denial; and*

[3](4) Notice of the remedies as stated in [State Government Article, 10-622 and 10-623] *General Provisions Article, §§ 4-1A-04, 4-1B-04, and 4-362*, Annotated Code of Maryland, for review of the denial.

C. *If the custodian reasonably believes that it will take more than 10 working days to produce the public record, the custodian shall indicate in writing or by electronic mail within 10 working days after receipt of the request:*

(1)*The amount of time anticipated to produce the public record;*

(2) *An estimate of the range of fees that may be charged to produce the requested public record; and*

(3) *The reason for the delay.*

[C.]D. If the custodian denies the written request, the custodian shall permit inspection of any part of the record that is subject to inspection [and is reasonably severable].

[D.]E. The custodian shall deny inspection of all or any part of a public record as provided in [State Government Article, 10-615-10-617] *General Provisions Article, Title 4, Subtitle 3*, Annotated Code of Maryland.

[E.]F. (text unchanged)

.05 (text unchanged)

.06 Review of the Denial.

[A. Within 30 days after receipt of the notice of the denial, the applicant may request an administrative hearing, unless the records are destroyed, lost, or temporarily unavailable.

B. If the applicant requests an administrative hearing, the hearing shall be conducted by an administrative law judge at the Office of Administrative Hearings and the hearing shall be governed by State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland. After the hearing, the administrative law judge shall prepare a recommended decision for the Insurance Commissioner. The Insurance Commissioner shall issue the final decision of the Administration.

C.] If the custodian denies a written request, the applicant may file an action with the circuit court pursuant to [State Government Article, §10-623] *General Provisions Article, §4-362*, Annotated Code of Maryland, without exhausting the administrative remedy under State Government Article, Title 10, Subtitle 2, Annotated Code of Maryland.

.07 (text unchanged)

.08 Inspection of Insurance Licensing Data for Compelling Public Purpose.

A. If a compelling public purpose exists under [State Government Article, §10-617(h)(3)] *General Provisions Article, §4-333(C)(1)*, Annotated Code of Maryland, the custodian may permit inspection of insurance licensing data, including the application record, on individuals other than that data specified under [State Government Article, §10-617(h)(2)] *General Provisions Article, §4-333(B)*, Annotated Code of Maryland, as set forth in this regulation.

B.-C. (text unchanged)

.09 Fees.

A.-C. (text unchanged)

D. Except as provided in §E of this regulation, the official custodian may charge reasonable fees for [official or employee time expended searching for requested] *the search for, preparation, and reproduction of a public record[s] prepared, on request of the applicant, in customized format; and the actual costs of the search for, preparation, and reproduction of a public record in standard format, including media and mechanical processing costs* [or for any time expended preparing records for inspection and copying]. *The staff and attorney review costs included in the calculation of such actual costs shall be prorated to reflect each individual's salary and actual time attributable to the search for and preparation of a public record under this section.*

E. (text unchanged)

F. Upon request, the official custodian may waive or reduce any fee charged pursuant to this regulation if [the official custodian determines that the waiver or reduction is in the public interest. The official custodian shall consider, among other relevant factors, the ability of the applicant to pay the cost or fee] *the applicant asks for a waiver, is indigent, and files an affidavit of indigency; or, if after consideration of the ability of the applicant to pay the fee and other relevant factors, the official custodian determines that the waiver would be in the public interest.*

G. (text unchanged)